

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6801 OF 2005

Kamlakar A. Pawar ...Applicant.

Versus

The State of Maharashtra ...Respondent.

Mr.R.R.Mahagaonkar, Advocate for the applicant
(appointed).
Smt.U.V.Kejariwal, APP, for the State.

CORAM : SMT.V.K.TAHILRAMANI, J.

DATED : APRIL 13, 2006.

P.C.i:

Heard learned Advocate for the applicant
and learned APP for the State.

2. The applicant has been convicted in Sessions Case No.65 of 1996. The learned 5th Additional Sessions Judge, Solapur convicted the applicant under Sections 380, 452, 394 and 460 of IPC and he was sentenced to suffer R.I. for seven years and fine of Rs.1000/-, in default R.I. for six months.

3. In the second case, the applicant has been convicted under Section 396 and 302 of IPC by the trial Court. The appellant preferred Appeal against said judgment in this Court i.e. Criminal Appeal No.92 of 1997. The appeal came to be disposed of by this Court. The conviction was confirmed and the applicant was directed to undergo life sentence.

4. Now, the applicant has prayed that the sentences in both these cases be directed to run concurrently.

4. The Supreme Court in the case of **Mohd. A. Hussain Vs. Asstt. Collector, Customs (Prevention) Ahmedabad** reported in **A.I.R. 1988 S.C. 2143** has observed as follows :

"The basic rule of thumb over the years has been the so called single transaction rule on concurrent sentences. If a given transaction constitutes two offences under two enactments generally, it is wrong to have consecutive sentences. It is proper and legitimate to have concurrent sentences. But this rule has no application if the transaction relating to offences is not the same or the facts

constituting the two offences are quite different." (emphasis supplied).

. The later principle will govern the case on hand. In other words, as both the offences committed by the applicant were independent and not arising from one transaction as such, the applicant ought to suffer consecutive sentences and the sentences in the two cases cannot be directed to run concurrently.

5. Looking to the facts of the case, the prayer of the applicant cannot be considered. Hence, the application is rejected.

(SMT.V.K.TAHILRAMANI, J.)